

Compliance Alert



Tax Cuts and Jobs Act Passes House

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The [Tax Cuts and Jobs Act](#) (TCJA) passed the House today [by a vote of 227 to 205](#).

The bill now heads to the Senate, which has already released [details on its version of the bill](#), and [subsequent revisions](#), with many significant differences.

Procedural Process

- **Step 1: Pass the House**
This was completed today.
- **Step 2: Pass the Senate**
Republicans need at least 50 votes to pass their bill. No filibuster is permitted under the reconciliation process. If the vote is tied 50-50, Vice President Pence will break the tie to pass the bill. Republicans hold a 52-member majority. Senator Johnson (R-WI) has [already announced](#) he will not vote for the bill.
- **Step 3: Conference**
The House and Senate leadership will need to negotiate a compromise bill via conferees from both chambers appointed by GOP leadership.
- **Step 4: Pass Post-Conference Bill**
The negotiated post-conference bill must be approved by both vote of the House and Senate majority. Debate will be permitted, but no amendments are allowed to the bill that comes out of conference. It is a straight up or down vote.
- **Step 5: President Signs Bill into Law**
If the House and Senate pass the post-conference bill, it finally reaches the president's desk. President Trump will have 10 days to sign or veto the bill after its passage. He is expected to sign the bill.

Key Employee Benefit Provisions in the TCJA

- **Dependent Care FSA Eliminated as of 2023**

The original version of the bill would have eliminated the Dependent Care FSA as of 2018. So this five-year delay is a small victory.

Current Senate Bill: Does not eliminate the Dependent Care FSA.

- **Adoption Assistance Programs Eliminated**

The bill eliminates the ability for employers to provide tax-free adoption assistance to employees (up to \$13,570 in 2017).

Current Senate Bill: Does not eliminate Adoption Assistance Programs.

- **Qualified Education Assistance Programs**

The bill eliminates the ability for employers to provide up to \$5,250 in annual tax-free education assistance to employees. The bill eliminates only the §127 qualified program that does not require the employee's educational expenses be work-related. Employers would still be able to offer the separate §132 working condition fringe tax-free educational benefit for work-related educational expenses.

Current Senate Bill: Does not eliminate Qualified Education Assistance Program.

Other Notables

- In a major surprise, the revised Senate bill now would [repeal the ACA's individual mandate](#). Technically, it would reduce the individual mandate penalty to zero rather than fully repeal the law (designed to comply with complex reconciliation rules needed to avoid the filibuster)—but this will have the same practical effect. The repeal would be effective as of 2019. It is estimated to save the government more than \$300 billion dollars over the ten-year budget window, resulting from reduced subsidies caused by reduced enrollment.
- The Senate bill would repeal the \$20/month tax-free bicycle commuting expense reimbursement benefit.
- Both the House and Senate bill have (different) minor changes to 401(k) and other qualified retirement plans.

Timeline

President Trump and the Republican Congress have repeatedly stated that they would like to complete the legislative process, and have President Trump sign the bill into law, by the end of 2017. Stay tuned!

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